

RAYMOND C. KELLEY, NATIONAL LEGISLATIVE DIRECTOR, AMVETS

STATEMENT OF

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BEFORE THE

SENATE COMMITTEE ON VETERANS' AFFAIRS

CONCERNING

PENDING VETERANS BENEFITS LEGISLATION

WEDNESDAY, APRIL 29, 2009
562 DIRKSEN SENATE OFFICE BUILDING
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Chairman Akaka, Ranking Member Burr, members of the Committee, thank you for inviting AMVETS to present our views regarding pending veterans benefits legislation.

S. 263

AMVETS supports S. 263, the "Servicemembers Access to Justice Act of 2009." This bill will provide meaningful protection from employment discrimination because of military service by strengthening the Uniformed Service Employment and Reemployment Rights Act (USERRA). S. 263 will hold employers more responsible by:

1. invoking waiver of the 11th Amendment in cases concerning USERRA violations.
2. amending Chapter 1 of title 9 U.S.C. to clarify that USERRA disputes are exempt from mandatory arbitration.
3. making it mandatory for courts to act on behalf the servicemember in cases of discriminatory firing by amending section 4323 (d).
4. expanding section 4323(d), title 38 U.S.C. to include federal employers as well as state and local governments and private employers, as well as making the amount of damages payable as \$10,000 or the actual amount of damages, whichever is greater.
5. requiring the award of attorney's fees in cases of employer USERRA violations.
6. protecting servicemembers in instances when the company he/she works for is purchased by an outside company by amending section 4303(4), title 38.
7. giving veterans the right to bring their case before state or US District Courts.

S. 315

S. 315 "Veterans Outreach Improvement Act of 2009" will authorize funds for VA to establish an enhanced outreach program as well as provide grants to state and local governments and

nonprofit community-based organizations to enhance outreach and provide services that will assist veterans and dependents of veterans in realizing eligibility and assisting in applying for and receiving benefits. AMVETS supports the intent of S. 315, but we recommend that VA be required to provide a more detailed outline of their outreach plan. AMVETS believes that only submitting their budget justification materials when submitting their fiscal year budget request to Congress is not a specific enough implementation plan.

S. 347

S. 347 will amend section 1980A(d) title 38, U.S.C. to distinguish between the severity of a qualifying loss of a dominate hand and a non-dominate hand. AMVETS supports this provision.

S. 407

AMVETS wholly supports the “Veterans’ Compensation Cost-of-Living Adjustment Act of 2009.” this provision provides the same cost-of-living increase as is payable under title II of the Social Security Act. In this matter, the legislation is consistent with the requests of the Independent Budget and will ensure that our service-connected disabled veterans and their families will receive timely increases to their compensation. However, AMVETS strongly opposes “rounding down” of disability compensation and DIC. This cost-savings practice comes at the expense of our veterans and their dependants and survivors. Rounding down cost-of-living increases is a tax on one of the most sacred benefits provided by our government. Continuing this 31 year-old practice robs monies from our most deserving to reconcile the budget or provide funding for other purposes.

S. 475

AMVETS supports S. 475, the “Military Spouses Residency Relief Act.” This Act will afford the same “home-of-record” status as the servicemember. Allowing spouses the ability to retain residency in a state regardless of where they are physically living while accompanying a military spouse who is on official military orders. Because of this legislation, military spouses will retain voting rights as well as maintain tax status in their home-of-record state.

S. 514

AMVETS believes that one of the underlying reasons disabled veterans do not complete Vocational Rehabilitation and Education (VR&E) Training is that the living stipend is not sufficient in assisting sustain a family while the veteran is in training. A full-time institutional program will grant \$613 per month for a family of four. Under this bill the same veteran would be provided more than \$1200 per month. This legislation will certainly reduce the financial burden of a veteran who is participating in VR&E. AMVETS supports this legislation.

S. 691

Currently, there are approximately 27,000 veterans who do not have reasonable access to a national or state cemetery using Colorado Springs as the center of the 75 mile radius. This falls well below the current VA formula of 170,000 veterans within a 75 mile radius and the Independent Budgets recommendation to reduce the veteran threshold to 110,000 veterans within a 75 mile radius. Of the 29 counties that are listed in S. 691 only 12 have all or some part of the county within the radius threshold. AMVETS realizes that Fort Logan will be closing no later than 2019 and a new cemetery will need to be built in its place, but placing the cemetery in the southern portion of the state will reduce accessibility for the higher populated northern portion of

the state. AMVETS does not support this legislation but recommends that NCA begin looking for a suitable cemetery location along the I-25 corridor south of Denver, but far enough north that veterans who live as far south as Pueblo and as far north as Fort Collins and Greeley could be served as well. For veterans who live in regions that will not be served by either Fort Logan or a newly established cemetery, AMVETS suggests that state work with NCA's State Grants Program to satisfy the burial needs of veterans who live in Colorado.

S. 663

AMVETS holds no position on this issue.

S. 728

Sec. 101 –Ninety years after Service-Disabled Veterans' Insurance was made available the policy remains the same, \$10,000. To make this policy meaningful again, AMVETS supports amending section 1922A title 38 U.S.C. to increase the SDVI to \$50,000.

Sec. 102 – AMVETS supports this provision

Sec. 103 – AMVETS supports this provision

Sec. 104 exceeds the recommendations of the Independent Budget by increasing the Veterans' mortgage Life Insurance from \$90,000 to \$150,000 and then increases it again in 2012 to \$200,000. AMVETS supports this provision.

Sec. 201 –amending section 1311(f) of title 38 U.S.C. to reflect the cost-of-living increase that are provided in title II of the Social Security Act is consistent with the IB, and AMVETS supports this provision; however, rounding down to the nearest whole dollar is nothing more than a tax on an earned benefit and should be eliminated.

Sec. 202 – AMVETS supports this provision

Sec. 203 –AMVETS supports this provision.

Sec. 204 –AMVETS supports this provision.

Sec. 301 –AMVETS supports the supplemental benefits for veterans for funeral and burial expenses. This provision meets the requests of past Independent Budgets through supplemental appropriated funds. AMVETS requests these supplemental payments be made permanent and match the requests of the 2010 IB which requests increasing the service-connected burial benefit to \$6,160 for those veterans who live outside the NCA threshold for national or state cemetery accessibility and increase the benefit to \$2,793 for veterans who live inside the NCA threshold for cemetery accessibility. This provision also requests supplemental payments for non-service-connected burial benefits. Again, AMVETS believes these payments should be made permanent to reflect the recommendations of the 2010 Independent Budget. Under this recommendation, the amount payable to a veteran who lives outside the NCA threshold should be increased to \$1,918 and veterans who live inside the threshold should receive \$854 as a burial benefit.

Sec. 302 – the supplemental plot allowance provided in this provision meets the expectations of past Independent Budgets and AMVETS supports the provision, but again AMVETS believes these payments should be made permanent and be increased to \$1,150 to reflex the suggestions of the 2010 IB.

Sec. 401 – AMVETS supports this provision

Sec. 402 – AMVETS supports this provision

S. 746

Using the center of Sarpy County as the center point there are 110,000 veterans who currently do not have access to a national or state cemetery. Again, under current NCA formula this region does not qualify for a national cemetery. However, the finding of the 2008 “Evaluation of the VA Burial Benefits Program” and the recommendations of the Independent Budget suggest the population threshold should be reduced to 110,000 veterans within a 75 mile radius. S. 746 describes the Sarpy County Region as an area that includes 82 counties in three states, but using NCA formula, only 27 of the counties will the 75 mile radius. AMVETS agrees with the intent of the legislation because it falls within the IB’s recommendations of 110,000 veterans’ population threshold. However, including 55 counties that fall outside the threshold model will leave veterans in these areas unserved by a state or national cemetery. AMVETS suggests the states involved assess the need outside the threshold radius and if needed apply for grants through the NCA’s State Grants Program.

S. 820

S. 820, The “Veterans’ Mobility Enhancement Act of 2009” increases the automobile assistance allowance for veterans. It matches the Independent Budget’s recommendations that this benefit should be 80% of the average retail cost of a new automobile. Currently, the allowance pays only 39% of the cost of a new vehicle. It is important that many of the veterans who qualify for this benefit will require an automobile that will meet their needs. These automobiles are often larger with specific adaptations that place the cost of these vehicles much higher than the average cost of today’s automobiles. AMVETS supports this legislation.

AMVETS supports the “Clarification of Characteristics of Combat Service Act of 2009.” Often times in a combat zone, access to permanent medical records or a medical facility is difficult at best. Ensuring a veteran will not be denied access to VA care because of the circumstances in which s/he served is important. AMVETS also agrees that defining combat zone to ensure that all servicemembers who are in a theater of operation have a more lenient burden of proof for service connectivity. AMVETS believes there is a definition that is between the too strict “engaged in combat with the enemy” and combat zone being defined by the Internal Revenue Code. The first definition often precludes servicemembers who service in a theater of operation but because of their Military Occupational Specialty are not traditionally seen as being engaged in combat with the enemy. Whereas the Internal Revenue Code based definition may be too broad of a term in many cases, but still exclude servicemembers who are serving abroad in the larger, overall Global War on Terrorism. Somewhere between these two definitions is the answer. Defining combat zone as theater of operation as agreed upon by the two Secretaries involved will include all servicemembers who should be granted a lesser burden of proof without jeopardizing the integrity of this provision.

AMVETS supports this legislation. It will ensure that disabled veterans will not have to wait for the beginning of the month to receive disability payments. By enacting this bill, veterans will not only receive immediate compensation for their disability, they will not be financially penalized by a system that waits to make payment at the beginning of the month.

Mr. Chairman, thank you again for providing AMVETS the opportunity to testify before your Committee today. This concludes my testimony and I will be happy to answer any questions you might have.